

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AUTHORS GUILD, et al.,

Plaintiffs,

v.

OPEN AI INC., et al.,

Defendants.

Consolidated:

Case No. 1:23-cv-08292-SHS-OTW

Case No. 1:23-cv-10211-SHS-OTW

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

MICROSOFT CORPORATION, et al.,

Defendants.

Consolidated:

Case No. 1:23-cv-11195-SHS-OTW

Case No. 1:24-cv-03285-SHS-OTW

Case No. 1:24-cv-04872-SHS-OTW

DEFENDANTS' [PROPOSED] ORDER FOR DEPOSITION COORDINATION

Having considered the parties' briefing, the materials submitted in support thereof, and any oral argument, and good cause appearing therefor, the Court hereby ORDERS the following protocol for coordination of depositions:

1. This deposition coordination protocol covers depositions taken in the Consolidated Newspaper Action¹ (“News Cases”) and the New York Consolidated Class Action² (“NY Class Cases”).

COORDINATION OF DEPOSITIONS

2. Unless otherwise agreed by the Parties or ordered by the Court, no fact witnesses will be deposed more than once, and all Parties will coordinate the date and location of depositions.

3. All 30(b)(1) depositions noticed in the NY Class and News Cases (regardless of who noticed them) shall be coordinated, automatically cross-noticed, and may be used across all of the NY Class and News Cases in accordance with Rule 32. The deposition hours shall be counted against all taking parties who participate in accordance with their time spent on the record examining the witness.

4. If a 30(b)(1) deposition of an OpenAI-affiliated witness is noticed in the California Consolidated Class Action cases³, OpenAI will promptly inform the New York Plaintiffs of such notice, and OpenAI and the New York Plaintiffs will use reasonable efforts to schedule the deposition on a date on which the New York Plaintiffs are available to participate. In such cases, the New York Plaintiffs will use their time after the CA Class Plaintiffs have exhausted their time. The deposition hours shall be counted against all taking parties in

¹ The Consolidated Newspaper Action consist of: *The New York Times Co. v. Microsoft Corp., et al.*, No. 1:23-cv-11195 (“*New York Times*”), *Daily News, LP, et al. v. Microsoft Corp., et al.*, No. 1:24-cv-3285 (“*Daily News*”), and *The Center for Investigative Reporting, Inc. v. Microsoft Corp., et al.*, No. 1:24-cv-04872 (“*CIR*”).

² The New York Consolidated Class Action cases consist of: *Authors Guild et al. v. OpenAI Inc. et al.*, (No. 1:23-cv-8292) and *Alter et al. v. OpenAI Inc. et al.*, (No. 1:23-cv-10211). A third case originally filed as a putative class action in the Southern District of New York, *Basbanes et. al. v. Microsoft et. al.*, (No. 1:24-cv-00084), has been stayed and is therefore not included in the aforementioned NY Class Cases.

³ The California Consolidated Class Action cases consist of: *Tremblay, et al. v. OpenAI, Inc., et al.*, (No. 3:23-cv-03223); *Silverman, et al. v. OpenAI, Inc, et al.*, (No. 4:23-cv-03416); *Chabon, et al. v. OpenAI, Inc, et al.*, (No. 4:23-cv-04625). Microsoft is not a party to the California Consolidated Class Action cases.

accordance with their time on the record. OpenAI will use reasonable efforts to confirm availability of NY Class and News Plaintiffs before confirming a deposition date in the California action. To the extent a party questions its own witness, such time will not count against the time limits set forth below in paragraphs 7, 8, and 9.

5. In order to effectuate coordination of 30(b)(6) witness testimony, all NY Class and News Plaintiffs shall each serve consolidated and comprehensive 30(b)(6) Notices on Defendants by February 14, 2025. Defendants shall designate 30(b)(6) witnesses for single sittings across all NY cases, and to the extent such witnesses are also 30(b)(1) witnesses, they will testify in all capacities at the same time.

6. Microsoft is not a party in the CA Class Cases, but Plaintiffs may seek to take non-party depositions of Microsoft in those cases. If so, the same procedures as in paragraphs 4 and 5 shall apply to such witnesses.

7. **Depositions Taken by Plaintiffs.**⁴ With respect to fact depositions taken by the Plaintiffs, a 140-hour cap (no more than 70 hours of one Defendant) shall apply in the NY Class Cases, and a 140-hour cap (no more than 70 hours of one Defendant) shall apply in the News Cases.

8. **Depositions Taken by Defendants.** With respect to fact depositions taken by the Defendants, a 120-hour cap shall apply in the NY Class Cases, and a 210-hour cap (no more than 70 hours of The New York Times, no more than 70 hours of the Daily News Plaintiffs, and no more than 70 hours of The Center for Investigative Reporting) shall apply in the News Cases.

9. **Additional Limits Applicable to the NY Class and News Cases.** The following time limits shall apply to all fact witness depositions:

⁴ Hours caps include depositions of non-party witnesses who are affiliated with a Party, including former officers, directors, and/or employees of a Party.

- a. 5 hours of on the record time across all cases for Apex witnesses;
- b. 9 hours of on the record time across all cases for individuals noticed as 30(b)(1) only in both the NY Class and News Cases;
- c. 12 hours of on the record time across all cases for individuals noticed as both 30(b)(1) and 30(b)(6) in both the NY Class and News Cases.
- d. Non-party witnesses affiliated with a party (e.g., former employee) count against the limits applicable to that party.

Entered this ____ day of _____, 2025.

IT IS SO ORDERED:

The Honorable Ona T. Wang
UNITED STATES MAGISTRATE JUDGE